

Dear Colleagues: The paper attached above (Destructing Causal Deconstruction) exposes some of the absurdities that are committed in the name of "Deconstruction." I think it is a good read -- clear, amusing, imaginative, and instructive. If you ever wondered what "deconstruction" is really about, you would be hard pressed to find a better introduction. One question that I cannot answer, however, is whether or not I would be arrested by a security officer if I insisted on wandering about the quad on our campus, handing out copies of this paper and discussing it with those who might be interested in the topic. This is not a silly question. For, as you will find if you read below, one of our students recently was denied the right to distribute copies of the constitution on this campus on Constitution day. He was blocked in the exercise of his freedom in this regard, both by campus security, and by an official from Student Services. As I say, my paper on Deconstruction is amusing. The following remarks on freedom of speech are not amusing. If I have said anything that offends anyone in what follows, I beg their forgiveness in advance.

Nearly a month ago (Sept. 17th) one of our MJC students, Robert Van Tuinen (also a veteran), was trying to pass out copies of our federal Constitution on Constitution Day. He was prevented in this exercise of free speech by an MJC security officer, and then by an official at the office of Student Services who told him he was allowed freedom of speech and the right to pass out literature only in certain tiny restricted areas on our campus, and then only after booking a reservation -- which would not be available until the following month!

I am puzzled why there has been no faculty outcry over this ugly incident. Why are we not standing up for our student who only wanted to exercise his constitutional right to free speech? Do we really want to be known nationwide as the college that wouldn't let a veteran pass out copies of our Constitution on Constitution Day?

While this news has not even been mentioned on our faculty mail site, it has given our college a black eye all across the nation. It has been reported in the Modesto Bee, on Fox news, and all over the internet. For example, the website for the Foundation for Individual Rights in Education ([thefire.org/case/930](http://thefire.org/case/930)) has a video of the incident, and relevant links to many other sites. It also has a copy of the lawsuit that Van Tuinen has filed regarding this violation of his First Amendment Rights, and even has posted a copy of a public statement on the matter by our honorable and esteemed College President, Jill Stearns. None of this has shown up on our faculty website. Why not? It seems to me that protecting our students' rights to freedom of expression should be of paramount concern to all of us.

A picture is worth a thousand words. If you think it a small matter that Van Tuinen was not allowed to exercise his rights on Constitution Day, then watch the video of how he was treated by campus security and Student Services. I contend that not even a morally defective person could watch that video without feeling deeply offended by how he was treated. But if any of the morally defective people out there can prove me wrong, let me know.

The First Amendment in pertinent part says, " Congress shall make no law ... abridging the

freedom of speech, or of the press ..." Some have taken this to be a right you have against the Federal Government, but not (say) against the State of California (as though the rights you thought you had simply in virtue of being a citizen of the United States could be nullified by the particular state in which you live). Happily, the point is largely moot because the constitution of California has its own guarantees of rights that largely parallel the U.S. Constitution Bill of Rights -- including separation of church and state, etc. Guarantees of freedom of expression even exist in parts of the California Code of Education, and even the University of California has a constitution that holds out these rights, and even individual campuses have their own codes regarding such things as Academic Freedom. At CSUS and at PLU, the rules that claim Academic Freedom for faculty make clear that such freedom should extend equally to students!

If we need to be reminded of the importance of Freedom of Thought and Expression in a democracy, and in an institution of higher learning, we need only review J.S. Mill's arguments in *On Liberty* that have been used to explain how only in an atmosphere of free discussion and free exchange of ideas can we develop our powers of judgment and have access to information that would enable us to know the truth and to develop our human excellences. An institute of learning without freedom of thought and expression and full exchange of information is simply not an institution of learning.

The lawsuit filed by Van Tuinen cites some court rulings that seem relevant to the issue at hand:

"In a long line of cases, the United States Supreme Court has made clear that "[t]eachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; The College's reflexive bureaucratic restriction of free expression is sadly ironic, as "[t]he essentiality of freedom in the community of American universities is almost self-evident." *Sweezy v. New Hampshire*, 354 U.S. 234, 250 ... The Court has stressed that "state colleges and universities are not enclaves immune from the sweep of the First Amendment." *Healy v. James*, 408 U.S. 169, 180 (1972). Quite to the contrary, "[t]he vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools." *Id.* (quoting *Shelton v. Tucker*, 364 U.S. 479, 487 (1960)). Accordingly, courts have zealously guarded the freedoms of speech, assembly, and petition in recognition that "[t]he college classroom with its surrounding environs is peculiarly the 'marketplace of ideas,' *id.* and that "[t]he first danger to liberty lies in granting the State the power" to limit these freedoms "against a background and tradition of thought and experiment that is at the center of our intellectual and philosophic tradition." *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 835 (1995)." Surely these are sentiments that we can fully embrace!

In a valiant effort to salvage this situation and to right the wrongs that have been done, our MJC President Jill Stearns has issued a statement on the matter. I do not know where it was published, as I got it off the [thefire.org](http://thefire.org) site. It seems to have been issued on 10/11, almost a month after the incident, and a couple days after the lawsuit was filed. In any event, President

Stearns does say that a formal apology has been provided the student, that the misunderstanding is deeply regretted, and that MJC and YCCD wholly support student free speech as a "fundamental pillar of education." Her endorsement of freedom is flawless: "I wish to express my thanks to those individuals willing to stand up for our Constitution and expression of free speech. To those who were offended by the appearance of censorship, we again affirm the commitment of the college and district to civil discourse. We appreciate all points of view across the spectrum and support every individual's right to express their view."

It seems to me that we should give President Stearns our full support in rectifying this unfortunate situation -- a situation probably not of her own making, since she likely is not the person who made the offending rules, and God knows she has had a more than full plate of responsibilities during her tenure here. There are however a couple small points that are cause for small wonder: First, it is unclear what she means when she addresses "those who were offended by the appearance of censorship." Van Tuinen was not subjected to the mere "appearance of censorship." He was silenced and he was prevented from distributing his literature. That is outright censorship, pure and simple, whether it resulted from a misunderstanding or not.

Second, while President Stearns seems to suggest that the incident was due to a confusion (a regrettable misunderstanding), and that staff have been provided policy and training to ensure more accurate information in the future, the lawsuit clearly cites the rules that were enforced against Van Tuinen. I do not see that the rules were misinterpreted. Have they been eliminated? In her 3rd paragraph, President Stearns says, "students may distribute printed material on campus in areas generally available to students and the community as long as they do not disrupt the orderly operation of the college. There are procedures to avoid duplicative use of areas. The district is evaluating its policies and procedures. The college and district administration support the peaceful distribution of printed materials on campus. There is absolutely no requirement that a student register weeks in advance and hand out his literature only in a small marked area." This is confusing. Are we being told that students never were restricted to a small area to distribute their literature, and that they never did have to get permission in advance? A large part of Van Tuinen's lawsuit is to seek an injunction against enforcement of the offending rules. If the rules used to restrict Van Tuinen just never existed, most of the suit goes out the window! But, if this is the case, President Stearns should cite the rules and point out how their misapplication was just a misunderstanding. I do apologize if I am simply wrong on this point.

Third, we are told that a formal apology has been provided the student. It seems to me, however, that apologies in such cases are best made in public. I think Van Tuinen would want a published apology, a public admission that MJC had no right to deny him the exercise of his liberties that they did, and a promise that no other students would have their rights similarly violated. And, since the violation of the rights of one of our fellow citizens violates us all, I believe that we all are entitled to see a copy of that apology, to see the particulars of the concessions made, and to see in what manner those liberties now are affirmed that then were

denied. Besides, the apology seems not to have had one of the effects I would have hoped for: The lawsuit apparently has not yet been dropped. That is evidence that it was not an adequate apology.

Another small point is that President Stearns complains about the lack of civility in some of the public response to the incident. She says, "it is disheartening that some of the public response has diverted so drastically from the principles of civility and in fact has become directed at individuals. Staff have been called morons, idiots, whores, and Nazis. Moreover, some communication was egregious to the point of death threats which clearly violates any precepts of free speech." Well, I generally am against name-calling. I personally would not call the MJC staff morons, idiots, or whores. But, I think we should put this whole civility thing in perspective. Getting hate mail just comes with the territory when one takes controversial stands in public. As bad as name-calling is, however, it really is not comparable to violating another person's civil liberties. The bill of rights does not give anyone the right not to be called an idiot or a whore. In fact, if congress cannot abridge my freedom of speech, perhaps the bill of rights gives me the right to call other people idiots or whores. Whether it does or not, calling people names is not as bad as is violating their constitutional rights. Moreover, I think one should not be terribly surprised if people are a tad uncivil when they think you assume you have the right to run roughshod over what they take to be their constitutional liberties. We shouldn't expect civility when we don't respect other people's civil liberties.

What about people calling us Nazis? Again, why be so hurt and surprised at being called Nazis when we are restricting people's liberties? This isn't what people expect from representatives of the law in this, these United States of America, in this land of the free and the brave. Instead of complaining that some (probably anonymous) people called our friends Nazis, perhaps instead we should commend Van Tuinen for his admirable restraint when he was blocked by a police officer, and told by a representative of this school that he had no right to distribute copies of the Constitution in a public place without first getting advance permission from a college administrator. Why should he be required to get advance permission from a bureaucrat to share his beliefs with others on the campus of an institution of higher learning? Who treats people like that? Nazis do. Communists do. The Taliban does. We don't expect Americans to act that way. That is why the word "Nazi" springs to some people's lips.

Of course MJC must put some restrictions on how people exercise these rights. People's right to free speech does not give them the right to disrupt educational activities on campus. So, some of the restrictions in place are good: People are not allowed to roam into classes, offices, or locker rooms to distribute their literature, they are not allowed to interfere with people's movements to and from classes, and they are not permitted to bring voice amplifiers on campus. Well and good. But, confining people to small areas, and making them get permission in advance to speak or to hand out literature, do not seem necessary for keeping the peace.

So, what about death threats? Of course death threats are unacceptable. To threaten another with death is against the law. Legally, it is assault, not an expression of free speech. But, again, I want anyone reading this to stop for a moment and try to comprehend the depth of the harm (the enormity of the crime) that we do to human beings when we use the power of the State to deprive them of (or to trample on or to violate) their civil liberties. Let it sink in how important these rights are. We don't like death threats? Of course not. But, the importance of these rights lies not just in the fact that people have been willing to die for them. These rights are killing rights. People have fought wars, they have killed people in large numbers in order to keep the rights that were denied to Van Tuinen.

Of course Van Tuinen is not making death threats. He lives in a country where he has a legal claim to the freedoms he was denied, and so he initiates a lawsuit to get what is his due as a citizen and as a human being. But, make no mistake about it. We honor those who have fallen in the defense of our way of life. But, we still have the Bill of Rights, not just because some soldiers died to keep us free. We have the Bill of Rights to protect us because our soldiers were competent killers of those who would oppress us. We spilled the blood of others to gain and to preserve those rights. So, these are not commodities to be treated lightly. Thomas Jefferson wrote that when a long train of abuses evinces a design to reduce us under absolute despotism, it is our right, it is our duty, to throw off such a government. When he wrote this, he was not advocating a tea party. He was advocating that we take up arms and if necessary kill those who would reduce us under absolute despotism. Such is the value that Americans place on their freedoms and their rights.

Happily, we are only facing a lawsuit, not a revolutionary army. So, how can we best get rid of this pesky lawsuit? Van Tuinen claims that he has been irreparably harmed, and he wants MJC policy changed, and he wants punitive damages -- he wants the people who trampled on his rights to pay. In one interview, he has said that he is not doing this for the money. I think what he wants is a civil rights victory. That should be easy to give him, especially if President Stearns is right this all has just been a misunderstanding. However, I suspect we will need to make substantial changes in the rules so that people can freely speak, discuss, and distribute literature anywhere on campus, so long as they do not disrupt the educational processes (subject of course to some of the restrictions I mentioned before that already are in place, like staying out of offices, classrooms, and lockers when exercising these freedoms). If (as I suspect) large changes in the rules are needed, I think the best that our President can do is to say something like this: "I am truly sorry that this slipped under my radar. I just was not paying attention, and you are absolutely right that these policies are not worthy of an institution for higher learning. So, with your advice, we are going to MAXIMIZE the opportunities for free discussion and free exchange of ideas on this campus." And, to make our wronged student confident that these rules will stand, we should promise to preface these rules governing speech on campus with pertinent quotations from the Bill of Rights, and even throw in another couple quotes that exalt these principles of freedom. How about this one from Thomas Jefferson: 1) "I have sworn upon the altar of God, eternal hostility against all

forms of tyranny over the minds of men."

Of course we likely will have to pay Van Tuinen's lawyers' fees, but the sooner this is settled, the less those fees will be. But, what about punitive damages? If he doesn't really care about money, if he just wants public acknowledgement that he was wronged, perhaps we should offer this: Buy him a couple thousand copies of the Constitution or of the Bill of Rights, and offer to make the individuals he has sued do community service that is relevant. Make them each do twenty hours of community service that consist of passing out copies of the Constitution and explaining to people the importance of everyone's right to free speech. That ought to make him whole. And, to show my sincerity, I hereby offer to do 20 hours of such community service myself. Perhaps I too bear part of the responsibility here, because this one flew under my radar too. I did not check to see if my students' rights to free speech were properly protected. Sometimes the implications of rules just do not strike us until we see them enforced.

One more thing: A couple weeks ago we were treated to a public exchange of emails between James Todd (the President of our Academic Senate) and another of our esteemed colleagues (Jim Howen) who was concerned that CEP might be using public monies to pay Angela Davis (an avowed Communist) to promulgate her political views (Davis once was the leader of the Communist Party USA, and was awarded the Lenin peace prize by Leonid Brezhnev himself.). James, who seems to admire Davis, accused Jim of intolerance and "reductionist politics." It seems to me that James was off topic, given that the question was the correctness and legality of using public monies to promulgate a political agenda, Communistic or not. As for intolerance, I think that a brief survey of the most famous communists of the 20th century (Lenin, Stalin, Mao, Pol Pot) leaves no doubt that they did not tolerate dissent, and that they crushed human liberties in general, free speech in particular. They all were mass murderers and brutal despots. So, on the whole, I do not see what there is to like about Communism. To give you a flavor of what it would be like to live under a Chairman Mao, for example, here are his articles of Party discipline: " 1) The individual is subordinate to the organization. 2) The minority is subordinate to the majority. 3) The lower level is subordinate to the higher level. 4) The entire membership is subordinate to the central Committee. Whoever violates these articles of discipline disrupts Party discipline." Know your place. Look up and shut up.

I do not know where Angela Davis would stand on these questions. However, I would have absolutely no problem with her coming to MJC and distributing the Communist Manifesto or a manifesto of her own device in the quad, so long as it is on her own dime. If she is advocating views that I think are dangerous, what better way to find out than to be handed a piece of her literature? And, if we have a free and open campus, I can write up my own refutation of her views to pass out the following day, and it is nobody's business if we are doing it on our own dime. And, who knows? Perhaps I will learn something from her. In any event, I see no reason why she should have to get permission from student affairs, show her ID, make an appointment, show that she is a student or that she represents any student club, or any other such nonsense, in order to distribute her literature. This is a free country. Our

campus belongs to the public, and should be treated as a public place. All people should be free to come and to express their thoughts. For example if some person hears that I or James Todd said something in class that he thinks is offensive or wrong, I think he should be allowed to write up his objections and distribute them to students in the quad. So, I am saying, let us open our arms entirely wide to freedom. Let the entire campus (except for locker rooms, classrooms, and offices) be a free speech zone. We don't need a pinched and rule-bound notion of free speech here. Let us set an example of commitment to free and open debate to the rest of the country.

Now, if you do not like my suggestion that we should have a policy of completely free, unfettered and unqualified freedom of thought and expression on this campus, just ask yourself this one question: Suppose that Thomas Paine, the great pamphleteer ("These are the times that try men's souls...") were to come to MJC. Would you make him show his ID or make an advance appointment? Would you sic campus security and Student Services on him before allowing him to distribute his literature? Hell, what would you do if Jesus came? Would you have Student services tell Him he needs an appointment in advance, that the free speech zone is booked up until next month, and that He needs to confine his speech to the designated free speech zone areas? I say, Let Freedom Reign!

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